

# **MINUTES OF THE CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE**

**March 18, 1997**

The Capital Projects and Bond Oversight Committee met on Tuesday, March 18, 1997, at 1:00 p.m., in Room 129 of the Capitol Annex. Representative Robert Damron, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Robert Damron, Chairman; Senators Tom Buford, Bob Leeper, and Denny Nunnelley; Representatives Drew Graham, Paul Marcotte, and Jim Wayne.

Guests: Bill Hintze, Earl Clements, Allen Holt, Governor's Office for Policy and Management; Secretary John McCarty, Finance and Administration Cabinet; Secretary Ann Latta, Kenny Rapier, Tourism Development Cabinet; Mary Ray Oaken, Bob Bender, Department of Parks; Harold Workman, State Fair Board; Tom Denton, Murray State University; Jim Abbott, Department for Facilities Management; Tom Howard, Kim Blitch, Bart Hardin, Office of Financial Management and Economic Analysis; John Covington, Kentucky Infrastructure Authority; Dr. Robert Tarvin, School Facilities and Construction Commission; Ernie Tacogue, Department of Education; Clyde Caudill, Kentucky School Board Association; Ray Peden, Department of Corrections; Ken Clevidence, Mary Allen, University of Kentucky; Sherron Jackson, Council on Higher Education; Ray Crider, KY LECET (Labors Employers Cooperation Trust Fund); Jim Carloss, Ericson Com.; Jack Affeldt, Kim Burch, Byron Costner, Miriam Fordham, Charles Shirley, Doug Teague, LRC.

LRC Staff: Mary Lynn Collins, Pat Ingram, Scott Varland, Susan Dance.

Press: Mark Chellgren, Associated Press; Tom Loftus, Courier Journal; Jack Brammer, Lexington Herald-Leader.

Representative Wayne made a motion to approve the minutes as submitted of the

2. Correspondence relating to the Committee's Open Records request to the Finance and Administration Cabinet and the State Fair Board for information regarding parties involved in negotiations for a parking garage underneath the Commonwealth Convention Center expansion. Chairman Damron said when the Finance Cabinet denied the Committee's Open Records request for the identity of private parties involved in negotiations, he appealed that decision to the Attorney General's Office. Subsequently, when negotiations broke off, Finance identified the private entities. However, in order to establish the Committee's right to the Open Records information and to establish statutory procedure, Chairman Damron said he requested the Attorney General's Office to continue to work on his request. He said the Committee will be looking at whether statutory changes need to be considered by the 1998 General Assembly to assure that the Legislative Branch is not barred in the future from information relating to authorized capital projects. The Attorney General's Office has indicated a Decision will be issued by May 9.

Representative Wayne noted that the motion at the last meeting to make the Open Records request stated that, if the request did not produce the information, the Committee would request a subpoena from the LRC. He asked if the Committee needed to revise that since the Chairman took a different route by approaching the Attorney General. Chairman Damron said the Committee's staff counsel felt the Committee should first go through the Attorney General's request process, and if that was turned down, the Committee could then go through the subpoena process. He said the information sought was provided once negotiations fell through and a subpoena for the information is no longer necessary. Now, he explained, the Committee is trying to establish what statutory changes the 1998 Session needs to consider in order to protect the rights of the Committee, the Legislature, and the public to such information.

3. Certification by the Finance and Administration Cabinet that private funds for the Department of Agriculture's Purchase of Agricultural Conservation Easements (PACE) Program have been raised.

Chairman Damron said the first item of New Business was a status report on the Department of Parks Revitalization Program, and he introduced Ann Latta, Secretary of the Tourism Development Cabinet; Mary Ray Oaken, Commissioner of the Department of Parks; and Bob Bender, Deputy Commissioner of Support Services, Department of Parks. Secretary Latta said there are 70 major renovation and construction projects either underway or on the drawing board. She summarized the status report furnished

Secretary Latta said 24 other projects have been successfully bid and construction is underway. These include renovations of the lodges at KenLake, Cumberland Falls, Jenny Wiley, Lake Barkley, and Pine Mountain, as well as the Lure and Pumpkin Creek Lodges at Lake Cumberland. Also included are upgrading of the sewer plant at Lake Barkley; correcting drainage problems on the golf course at Ben Hawes; replacing water and sewer lines at KenLake; renovating the Amphitheater and the Mansion at My Old Kentucky Home; renovating the museum at Blue Licks; renovating the kitchen at Barren River; constructing a sewer plant and a city water connection at Buckhorn; renovating community pools at Cumberland Falls, Jenny Wiley, and Lake Cumberland; improving the campgrounds at Natural Bridge and Lei Jackson; and, renovating the country store and providing additional parking at Lake Cumberland.

She said the 36 projects that are either finished, substantially finished, or under construction represent \$45 million worth of work. Eight of the 36 projects required supplemental funding of approximately \$1.4 million or 3.2% of the projects' total scope from either the Capital Construction and Equipment Purchase Contingency Account or the Emergency Repair, Maintenance, and Replacement Account. Of the 36 projects, the Department of Parks does not anticipate any future supplemental funding.

Secretary Latta said 30 of the remaining projects are in various stages of design and should be under construction later this year. Four projects had bids rejected and will be rebid. Consultants for all 30 projects have been instructed to design a scope of work that is within current available funding.

Secretary Latta said major modifications have been initiated with several projects. Design money for a golf course at Jenny Wiley will now be used for a golf course adjacent to the Park. The golf course will be constructed and operated by the City of Prestonsburg on property controlled by the City. The Kentucky Dam Village Lodge renovation project will be rebid this Summer, with work scheduled to begin in the Fall. In an effort to bring this project within budget, the proposed new lodge pool, restrooms, and exterior canopy work will be eliminated from the base bid package. The Barren River Lodge renovation will be rebid late this Spring, with work scheduled to begin in the Summer. To bring this project within budget, changes were made in the heating, ventilation and air conditioning (HVAC) design, and window replacements and the swimming pool deck expansion were eliminated. The Rough River Marina project will be rebid in March with work to begin in the next few weeks; new houseboat walkways,

accomplishment. He said Revenue Secretary Handmaker recently suggested that, in response to the recent court decision about the intangible property tax in the state and the impact that will have on the budget, one option the Administration may consider is bonding some of the parks projects authorized for cash. He asked if that would delay or in any way affect completion of the projects. Mr. Bender said that Parks and the Tourism Development Cabinet have worked very closely with the Finance Cabinet and GOPM and they do have under contract the design effort for each of the projects, both bond funded and cash funded. Consequently, he said, he would be surprised if a change in the source of funding would result in any significant delay in any of the projects.

Chairman Damron asked about the status of Switzer Bridge, whether any other covered bridges were affected by recent flooding, and whether there was any insurance on the bridges. Mr. Bender said Parks has \$75,000 in flood insurance on the Switzer Bridge and \$50,000 on each of the other bridges under its jurisdiction. Parks is waiting for a report from the engineering firm employed by the Transportation Cabinet that will make recommendations and identify cost estimates for all of the damaged bridges, including Switzer Bridge which suffered the most serious damage.

Chairman Damron asked if Parks had any idea what the cost would be to repair Switzer Bridge. Mr. Bender said he had not yet received that information from Transportation. He assured the Committee that the covered bridges remain a high priority with the Department.

Chairman Damron stated that, in September 1996, the Committee approved an allocation of \$200,000 from the state Capital Construction and Equipment Purchase Contingency Account to match \$1,600,000 in federal ISTEA (Intermodal Surface Transportation Efficiency Act of 1991) funds and \$200,000 from the state Transportation Cabinet to fund renovation and repair projects for the state's 11 wooden covered bridges in 8 counties that were in a poor state of repair. He asked if it would be possible to use some of the funds from the other bridge repair projects to supplement the insurance money to help repair Switzer's flood damage. Mr. Bender said that the Department and the Transportation Cabinet will be looking at that possibility. Secretary Latta said that Switzer Bridge was not included in the original proposal because, in September, it was in good shape due to recent renovation. She said the planned repairs on the other 11 bridges are just getting started. In response to Chairman Damron's question, Mr. Bender said there is a possibility of using some of those funds

In response to questions from Chairman Damron, Mr. Bender said of the 36 completed or nearly completed projects, 8 required additional funding, 3 came in "substantially under budget," and the remaining 25 were at or slightly under budget.

Representative Wayne asked if it could be concluded that the prevailing wage law enacted in 1996 has not impacted the cost of the parks projects, because supplemental funding from the Contingency and/or Emergency Accounts is only running 3.2% over budget. Mr. Bender said it was always assumed prevailing wage would be a factor and it had been included in project estimates. Chairman Damron said, even prior to the 1996 amendments, state projects over \$400,000 were subject to the prevailing wage law. He said the new prevailing wage law does not affect these projects as much as it does school districts, cities, counties, special districts and universities who were exempt from prevailing wage prior to 1996 legislative action. Mr. Bender said that was accurate.

Next considered was the monthly project report from the Finance and Administration Cabinet. Mr. Bill Hintze, Deputy State Budget Director, Governor's Office for Policy and Management, was present. The only item reported involved a change in the method of acquisition for a project authorized by the 1996 General Assembly - the Campus Backbone Network for Murray State University (MuSU), authorized for \$4,500,000 in restricted agency funds. Mr. Hintze said MuSU does not have sufficient agency and restricted funds to purchase the fiber optic network and would like to enter into a lease-purchase agreement for a portion of the project. He said MuSU proposed to use \$1.5 million of agency funds to move ahead with the first component of the authorization. The source of funds is an established student fee, he said, and this was reported as an information item to indicate the change in the manner of acquisition within the scope.

Chairman Damron asked if MuSU were just buying less than it had planned, or if additional funds will be asked for in the 1998 Session. Mr. Tom Denton from MuSU said the University feels it can do the major portion of the project, which was initially estimated at \$4.5 million, for substantially less, because the cost of cabling and other electronic elements has gone down substantially. He said there may be some items that cannot be completed, but the project primarily will remain intact.

Senator Nunnelley asked Mr. Denton to explain what a Municipal Lease Agreement entails. Mr. Denton said the difference in a Municipal Lease Agreement and

rate is 115 basis points less than the 5-year average Treasury bill. As of the meeting date, the rate was approximately 6%.

Chairman Damron said the report was provided for the Committee's information, and no action was required.

Next on the agenda was a proposed scope increase for a project at the University of Kentucky (UK) - Residence Halls Renovation authorized by the 1992 General Assembly for \$2,866,000 in agency bond funds. (UK's Series M Housing and Dining revenue bonds were privately placed with the US Department of Education with an interest rate of 5.5% in 1993.) Mr. Ken Clevidence of UK said most of the renovations have been completed. Some life/safety items need to be upgraded in one of the housing units, Haggin Hall, including an alarm system and an emergency generator. The project account balance was about \$100,000, and UK wished to add \$250,000 in housing and dining revenues to provide sufficient funds to complete the project. With this 8.7% increase, the total project scope will be \$3,116,000. Senator Buford made a motion to approve the scope increase for the project. The motion was seconded by Representative Wayne, and approved by unanimous voice vote.

Next on the agenda was a report from the Finance and Administration Cabinet on amortization of the cost of leasehold improvements for 2 existing state leases. Mr. Jim Abbott, Director, Division of Real Properties, said the first lease agreement modification was PR-4072, which provides miner training and office space for the Department of Mines and Minerals on Highway 25E in Barbourville, Knox County. The agency requested construction of a hallway with door between general office areas and training areas to reduce noise and to prevent students from wandering into office areas during breaks. Mr. Abbott noted that Real Properties, in laying out the design for this leased space, should have recognized this would be a problem. Also, state codes required that additional exit signage and emergency lighting be provided. The lessor, G&M Oil Company, provided 2 estimates - \$1,387.72 from F, G, & M Builders and \$1,510 from K & J Builders. The low bid was approved. Current cost per sq. ft. of the lease is \$8.75; annual cost is \$37,511.25. Building modification costs of \$1,387.72 will be amortized over the remaining lease term (through June 30, 2002).

The second item involved modification of lease agreement PR-3876, which provides office space for the Personnel Cabinet at 200 Fair Oaks Lane in Franklin County. Personnel requested the space be modified to create 2 additional offices for

found the bid to be "a little high." The Hughes estimate was subsequently lowered to \$12,950 which was accepted.

The \$12,950 plus 10% interest will be amortized over the remaining term of the lease (through June 30, 1999). The cost per sq. ft. of the lease will increase from \$8.20 to \$8.34 and annual costs will increase from \$373,067 to \$379,518.

Chairman Damron noted that this lease was renewed effective July 1, 1996 for an additional 2-year term with an increase in rental rate per sq. ft. from \$7.43 to \$8.20. He asked if no one in the Personnel Cabinet realized that the reorganization was pending and the new commissioners' offices would be needed so the cost of some of these modifications could have been negotiated as part of the renewal for the lessor to absorb. Mr. Abbott said he could only respond for his Division, and had he known of the reorganization, he would have taken a different course.

In response to questions from Senator Buford, Mr. Abbott said the principals of Leestown Partners are Robert Baranaskas (of Northport, NY - 45%), Gary Thomas (of Waddy - 10%), and Mike Liber (of Cincinnati - 10%). There are 3 other owners (each with 5% - Joe Darmand of Versailles; Brad Baruh of Hillsborough, CA; and John Ramig of Old Tappen, NJ). Mr. Abbott said the lease provides 45,496 sq. ft. Senator Buford suggested at some point, this Committee might like to see some before-and-after pictures to see what kind of offices are being created by this project.

Chairman Damron said lease modifications of less than \$50,000 must be reported to the Committee within 30 days, but require no Committee action.

Chairman Damron said next on the agenda were the bond activity reports from the Office of Financial Management and Economic Analysis (OFMEA). Mr. Tom Howard of OFMEA was present to report new bond issues:

1. University of Kentucky Housing and Dining System Revenue Bonds, 1997 Series Q with gross proceeds of \$6,645,000 for renovation of Cooperstown and Shawneetown, Donovan Life/Safety project, Kirwin-Blanding Elevators, Donovan Hall HVAC and a portion of construction of a student residence building. These projects, totaling \$5,932,000, were approved for funding with agency bonds as part of the 1996-98 University Restricted Funds Bond Projects Pool authorized for the Council on Higher Education.

2. Kentucky Infrastructure Authority Bond Anticipation Notes, 1997 Series A, in the amount of \$5,390,000. Mr. Howard said this variable rate issue would provide interim financing for KIA Fund C loan projects during construction and before conversion to permanent financing by the Program. Proposed date of sale through negotiation was April 16, the expected rating was A-1 by Standard and Poor's, the net proceeds for the project are \$5 million, and the expected interest rate was approximately 4.175%. The first call date was May 7, 1997. Merrill-Lynch was senior underwriter; bond counsel was Peck, Shaffer and Williams; and underwriter's counsel was Brown, Todd and Heyburn.

3. Kentucky Housing Corporation (KHC) Housing Revenue Bonds, 1997 Series A, B, C and D, with gross proceeds totaling approximately \$70 million, to meet continuing demand in the KHC ownership program and provide single family mortgage loans to first-time home buyers. 1997 Series A are non-AMT (alternative minimum tax) bonds of approximately \$10 million; the Series B bonds, in the amount of \$30 million, will be subject to AMT. The Series C bonds will be taxable for a total of approximately \$10 million in long-term assets. Series D will be a short-term convertible option bond that will be approximately \$20-25 million in size. This will be a negotiated sale. Bond counsel was Kutak Rock, underwriter's counsel was Peck, Shaffer and Williams; the underwriter was Merrill-Lynch; and trustee was PNC Bank.

The bonds are scheduled for sale by negotiation on April 25, 1997, with ratings of Aaa and AAA. Expected interest rates are: Series A - 5.58% for 20 years; Series B - 6.10% for 30 years; Series C - 7.15% for 15 years; and Series D - 4.05% with maturity January 1, 1998.

4. Kentucky Higher Education Student Loan Corporation (KHESLC) Insured Student Loan Revenue Bonds, 1997 Series C-1, C-2, C-3, and C-4, with gross proceeds totaling \$4,920,000. This was to preserve the tax exempt status and current refunding of scheduled maturities due June 1 and December 1 of 1997. The proposed date of sale was April 17, the expected rating are Aa by Moody's, AA- by S&P. Series C-1 are non-AMT bonds in the amount of \$1,870,000; Series C-2 are AMT bonds in the amount of \$1,000,000; Series C-3 are non-AMT bonds in the amount of \$1,050,000; and C-4 are AMT bonds in the amount of \$1,000,000, for a total of \$4,920,000. These bonds are non-callable and have extraordinary optional redemption provisions. The method of sale was negotiated, and estimated net interest cost was 4.90%. Bond counsel was Hawkins, Delafield and Wood; underwriter's counsel was Kreiq, DeVault,



acquire student loans on behalf of Kentucky residents and students attending Kentucky institutions. Proposed date of sale was April 17. The expected rating for the Series A Senior Taxable Structure was AAA, and the Series B subordinated AMT bonds are expected to have a rating of A. The Series A bonds are expected to be approximately \$90 million in size; the subordinated Series B are expected to be \$44.5 million. The expected interest rate for the Series A bonds is approximately 5.5%, and for Series B is approximately 4.175%. They carry a final rate of maturity of 2027. The bonds are callable on any interest payment date. The participants are the same as in the previously reported KHESLC issuance.

Senator Nunnelley asked how interest rate projections are developed for issues, noting some of these rates are predicted 5-6 weeks in advance. Mr. Howard said OFMEA and the underwriter generally estimate current market conditions and factor in any action anticipated by the Federal Reserve Board. The underwriter then runs an estimated debt service schedule based on the estimates. The rates reported today, he said, tend to be a little more conservative because the market is rising a little.

Chairman Damron said it is not unusual for OFMEA to report back to the Committee that an issuance has been delayed because market rates rose, and he asked if OFMEA has a rule of thumb it uses to decide to hold off on issuing a bond. Mr. Howard said it really depends on the prospects for future rate increases and whether it is wiser to lock in a rate now. If it is an issuance to fund a capital project, the bonds will be sold if the moneys appropriated are sufficient to support debt service at current rates unless OFMEA thinks there is a temporary aberration in rates. The KHESLC and KHC, however, have recoveries of principal they are mandated to take advantage of within a very short time horizon to preserve the AMT or non-AMT status of bonds and they may have to issue no matter what interest rates are. He said it is not unusual for OFMEA to hold an issue up for several weeks if it thinks rates will be more favorable.

Representative Wayne made a motion to approve the 5 new issues. The motion was seconded by Senator Leeper, and approved by unanimous voice vote.

Mr. Tom Howard also reported new School Building Revenue and Refunding Bonds, Series 1997, with state funding through School Facilities Construction Commission (SFCC) participation in annual debt service payments, for the following school districts:

c. Taylor County - with gross proceeds of \$2,075,000, to refund a 1987 bond issue. Annual SFCC debt service participation of \$114,468 and locally-funded debt service of \$156,667.

Mr. Howard noted that these refundings may not go as scheduled because the market is volatile right now. There were no local school tax rate increases associated with the bonds.

Representative Graham made a motion to approve the 3 new SFCC-assisted bond issues. The motion was seconded by Senator Leeper, and approved by unanimous voice vote.

Also reported was the proposed issuance of School Building Revenue Bonds, Series 1997, with 100% locally-funded debt service and no SFCC debt service participation, for:

a. Kenton County - with gross proceeds of \$21,245,000, to construct new elementary and middle schools.

b. Kentucky Interlocal School Transportation Association (KISTA) - with gross proceeds of \$470,000, to purchase 9 school buses for Clark County.

Bond Payee Disclosure Forms and additional preliminary information for each bond issue were provided. Ms. Mary Lynn Collins said staff had reviewed these 2 bond issues and found that all required information has been provided, and there are no local school tax rate increases associated with the bond issues. Bond payee information must be provided for the locally-funded school bonds prior to their issuance, but Committee action is not required.

OFMEA also provided for the Committee's information updated monthly and weekly debt issuance calendars.

Chairman Damron noted Committee staff also provided information on funding alternatives for the state's tax refund liabilities.

Chairman Damron said next for consideration was a status report from the Finance and Administration Cabinet on the state's Capital Construction and Equipment Purchase Contingency Account and Emergency Repair, Maintenance and

Chairman Damron introduced Mr. Bill Hintze, Deputy State Budget Director, Governor's Office for Policy and Management. Mr. Hintze said that Secretary John McCarty of the Finance and Administration Cabinet should arrive momentarily to participate in the discussion. Mr. Hintze outlined the materials that had been given to the Committee concerning these 2 major funds. He said that these 2 funds are both statutory accounts administered by the Secretary of the Finance and Administration Cabinet subject to certain terms and conditions set out in KRS 45.750 to 45.810. These are the funds tapped when agencies of state government and most of the universities encounter unforeseen difficulties in a project, or emergencies arise. Occasionally, the Contingency Account is also used for unbudgeted projects because of the presence of matching federal or non-state funds, or for feasibility studies.

Mr. Hintze said historical profiles were provided for the funds to provide some perspective on where they are today and how they have been used over the past decade. The profiles showed the history of the 2 funds from 1987 to the present. Mr. Hintze said the report shows the Contingency Account currently is in about as good a position as it has been in the past decade. In the most recently concluded fiscal period, there has been more activity in the Contingency Account than ever before, and much of the expenditure has been specifically related to the Kentucky History Center Project. That project is responsible for the largest hit on the fund since it was created in 1979-80. Mr. Hintze said, however, the Administration thinks that was a one-time situation, and it forecasts no other project that will deal such a blow to the fund. The \$8 million biennial appropriation made to this fund by the 1996 General Assembly, which this Committee endorsed as did the Capital Planning Advisory Board and the Governor recommended, is by far the largest biennial appropriation made over the last 10 years to the fund. It was anticipated that there would be extraordinary pressures with the mass of parks projects moving forward and the backlog of other projects in the system, particularly high profile, large projects authorized by the 1995 Special Session - the History Center and the convention center projects in Louisville and Northern Kentucky.

Mr. Hintze said Secretary McCarty asked him specifically to re-emphasize the point that the Administration made special efforts to provide funding for the History Center project. The project had been designed, redesigned, and bid, and there were further solicitations made to the three lowest bidders. Mr. Hintze stressed the Administration did not want to compromise the project by making further cuts in design, and chose to commit over \$3 million from the Account to this unique project.

the next biennium, possibly \$8 million. He said that amount may be adjusted before the next biennial budget request is made, depending on experience in the interim.

Mr. Hintze said a historical profile was also provided on the Emergency Repair, Maintenance, and Replacement Account, which is in better condition with a balance in excess of \$14 million. That Account also received an \$8 million biennial appropriation from the 1996 Regular Session, but it has not suffered the pressure the Contingency Account has experienced. The most serious draw probably has been cleanup of fire damage at the Old Fine Arts Building at Murray State University. The Finance Cabinet anticipates requesting another \$8 million for the Emergency Account in its Six-Year Capital Plan, an amount which also may be adjusted based on experience for the next biennial budget request.

Chairman Damron asked if the Switzer Bridge repairs might receive funds from the Emergency Account. Mr. Hintze said the state should tap into any available private or federal fund sources first, but Switzer Bridge would be eligible for assistance, which is only fair in light of recent funding approved to repair and renovate the other covered bridges prior to the flooding. He said it can take time to determine costs for flood repairs and any subsurface problems, as well as to determine who is liable financially for repairs. The Commonwealth is still sorting out with the federal government what it will pay for with respect to individuals, families, state infrastructure, state buildings, and local government impacts, and it may well be that some of those problems will have to be addressed through the Emergency Account. When state government has dealt with natural disasters in the past it has used the power of the Governor's declared emergency orders to pay for projects through state General Fund Surplus as a necessary government expense, with matching funds provided by the federal government. He said he was expecting a report from Military Affairs and Disaster and Emergency Services within the next day on the situation in the Commonwealth, and it is necessary to know for sure how much of a hit the state is going to take before action can be taken. He said when the National Guard is called out to assist with disasters, that is paid for as a necessary government expense. For some things, it will be a matter of discretion or trying to piece together fund sources. He said some of the problems could well come back to the Emergency Account and this Committee, and he would be happy to report on the flood repair situation when all of the information is pulled together.

Chairman Damron asked if there were any unbudgeted projects, other than PACE,

Chairman Damron asked if additional funding would be requested for the GIS Digital Basemap or the KTLN (Kentucky TeleLinking Network) before the 1998 Session. Mr. Hintze said GIS is not complete in all of its components, but GOPM has not been asked to bring it back for further funding. He said there are plans to continue both the Basemap and the KTLN projects, but no plans to bring back them before the Committee for contingency funds at this time, and no further plans to fund any more unbudgeted projects from the Contingency Account.

Chairman Damron said he was pleased that Mr. Hintze and Secretary McCarty were confident the Contingency and Emergency Accounts are sound, and adequate to complete the bidding process for the Parks projects, the 2 convention center projects, and the other funded projects. Mr. Hintze said they were reasonably confident - they do not have all of the bids in hand, but they believe they have an informed historical perspective on what is likely to happen. He said they can come back to the issue if they need to, but so far they do not expect to need to do so.

Chairman Damron said before the state raids the cupboard to pay for higher education, he wanted to make sure there are sufficient funds to complete budgeted projects. He said he and a number of legislators are interested in finding some money for a project called Home Care that was taken out of the budget. But, he said, he would hate to see the Contingency Account insufficiently funded to complete projects that the General Assembly has approved, as opposed to projects such as GIS that never were authorized by legislative action.

Next on the agenda was a status report on the Commonwealth Convention Center Expansion project. Mr. Harold Workman, President and CEO of the State Fair Board, Secretary McCarty, and Mr. Hintze were present. Mr. Workman said, after a brief delay of 90 and 120 days to review the possibility of constructing a parking garage under the Center expansion with private investment funds, negotiations have ceased and the project is now moving forward. The excavation contractor is now on site; he did 70% of his work in January and then was off site for about 30 days while final discussions were taking place. It is anticipated the initial phase of the project, which is the expansion portion, will be completed approximately March 1999. The renovation phase for the current Center will be completed by December 1999.

Chairman Damron asked when they would know whether or not the project was on budget. Mr. Workman said there are 32 different bid packages; right now they are

Excavation and Auger Cast Piles, came in under estimate - Excavation by about \$350,000 and the Piles by about \$100,000. He said this is an indication that the project estimator is doing a good job, and there is some competition in the bids. He said completion of the whole project may be ahead of schedule, because the renovation of the existing facility is now going to start while the expansion project is still underway.

In response to a question from Chairman Damron, Mr. Workman said the project is approximately 9 months behind. He said part of the reason for the delay is time lost when the local community decided it did not want to close Third Street and opted to elevate the Center over Third Street. Six months were lost while they worked with a locally-appointed committee to redesign the project.

Chairman Damron said he understood that next month there would be a request made of the Committee to approve a scope increase for some privately-funded exterior work. Mr. Workman said that was correct; there will be additional local bonding of \$7.23 million to be supported by the 2% room tax revenue that is to pay the initial local bonding currently in place. Chairman Damron asked if that would involve any additional delays on the project. Mr. Workman said it would not.

Chairman Damron said as recently as Monday morning he heard a rumor that negotiations for the privately-funded parking garage were back on track through the City. Mr. Workman said he wrote a letter to Secretary McCarty dated March 4 indicating that negotiations had ceased for any potential private dollars going into the construction of a parking garage. That same date he received a preliminary inquiry from the Mayor's Office, but he said there is no validity to rumors that a parking garage will be funded through that source. Mr. Workman agreed that at this point the privately-funded parking structure is a dead issue, and he was moving forward as quickly as possible to complete the Convention Center project.

Chairman Damron asked if any contractors had made any claims against the State Fair Board or the State for delay associated with the negotiations. Mr. Workman said there have not been any damage claims from any contractors to his knowledge. Some funds, \$50,000, were expended to do a preliminary study to be sure that they could go down 2 or 3 levels to build a parking garage, and there will be a related legal fee of no more than \$25,000. He said the \$25,000 was an agency receipt expenditure, and the \$50,000 was initially charged to the project but can be reimbursed through agency receipts if need be.

Representative Wayne, noting that neither Secretary McCarty nor Mr. Workman were present at the Committee's last meeting when it voted to pursue the Open Records information, said the Committee's attitude was not combative. Rather, he said the Committee wants to work with the Executive Branch; there is a lot invested in this project, and he felt the Committee was motivated by a spirit of openness and cooperation. He said the Committee came down with a strong motion to get its point across, but the Committee wants to cooperate and he hoped all could go forward in that spirit.

Secretary McCarty said he understood the Committee's position and he hoped the Committee understood his. They had hoped to take this public investment of some \$56 million in the Center and leverage it with private dollars to enhance the Center. That was their intent and their effort, and he went on to say when the state is in such negotiations, it is a tenuous position. He said since the Committee could not guarantee the information could be held in confidence, the issue is one of legal interpretation and in the hands of the lawyers now. He said it was one of those situations where they had a position and the Committee had a position, and it was not a personal issue with them, either.

Chairman Damron asked if private financing of a parking structure would not be considered a scope increase for the project. Mr. Hintze said it would be an increase in scope. Chairman Damron said that was the concern of the Committee and staff - that they were really looking at a substantial increase in scope, as well as an action that would delay completion of the convention center when a proposal to add a parking structure had never come before the General Assembly. While it would have been reported to the Committee at some point and the Committee's concurrence requested, by then, the ground would have been broken, the contractors would have been well underway to digging the foundation some 30 feet deeper, and this Committee's action would have been for naught. He said he felt that would have been a concern not only for this Committee, but also for the other legislators from the Jefferson County area who very much want the convention center completed on schedule. He agreed this was not anything personal from his or the Committee's standpoint, nor was it personal from the Secretary's standpoint. He said at one point someone said the garage would be a virtual gift, but he was not sure anyone was willing to give \$15 million to the Commonwealth with no strings attached. He said he felt there are underlying questions as to where do we draw the line on private entities proposing to build on public property, how do we ensure full disclosure of such negotiations, and how do we ensure

Chairman Damron thanked Secretary McCarty, Mr. Workman, and Mr. Hintze for their report, and for their being forthcoming in discussions with Committee staff and himself.

Chairman Damron said the next meeting would be Tuesday, April 15, at 1:00 p.m. There being no further business to come before the Committee, the meeting was adjourned at 2:25 p.m.